

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL
CITY COUNCIL MEETING
MINUTES - OCTOBER 23, 2002**

CALL TO ORDER

Redevelopment Agency Vice-Chairperson Chang called the meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Present: Vice-Chairperson/Council Member Chang, Agency/Council Members
Carr, Tate, Sellers
Absent: Mayor/Chairperson Kennedy

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Agency Council/City Attorney Leichter announced the following closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING
LITIGATION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1
potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the
southwesterly side of Cochrane Road (St. Louise
Hospital property)

City Negotiators: Agency Members; Executive Director; Agency
Counsel; F. Gale Conner, special counsel; Rutan &
Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate
Negotiations

OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chairperson Chang opened the closed session items to public comment.

No comments being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Vice-Chairperson Chang adjourned the meeting to closed session at 6:31 p.m.

RECONVENE

Vice-Chairperson Chang reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Council/City Attorney Leichter announced that there was no reportable action taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Vice-Chairperson Chang, Ms. Dina Campeau, led the Pledge of Allegiance.

PROCLAMATIONS

Vice-Chairperson Chang presented a proclamation designating November 17 - 23, 2002, as Hunger and Homelessness Awareness Week to Ms. Dina Campeau, of the Emergency Housing Consortium.

Ms. Campeau summarized the educational programs and services provided by the Emergency Housing Consortium during Hunger and Homelessness Awareness Week to educate the public about this problem.

OTHER REPORTS

Agency/Council Member Tate reported that he had attended a dinner held to thank those who participated in making the Taste of Morgan Hill a successful event this year. He was presented with a plaque thanking the City for its support and participation in the event, which he will pass on to the City Manager.

He also reported on the on-going effort to gain Proposition 14 grant funding for a new library. The decision will be made on December 2, and he encouraged all library users to assist the lobbying effort to get the attention of the decision makers about the need for a new library. Those interested in participating can find information on the City website on how to write to decision makers. He

encouraged citizens to participate because their input will have an impact on this decision.

PUBLIC COMMENT

Vice-Chairperson Chang opened the floor to comments for items not appearing on this evening's agenda.

No comments being offered, the public comment was closed.

CONSENT CALENDAR:

Redevelopment Agency Action

Action: *On a motion by Agency/Council Member Sellers and seconded by Agency/Council Member Tate, the Redevelopment Agency/City Council unanimously (4-0), with Kennedy Absent, **Approved** Items 1 - 6, as follows:*

1) **SEPTEMBER 2002 FINANCE AND INVESTMENT REPORT**

Action: ***Accepted** and **Filed** Report.*

City Council Action

2) **PROCLAMATION FOR WORLD POPULATION AWARENESS WEEK**

Action: ***Approved** Proclamation Proclaiming the Week of October 21-27, 2002, as World Population Awareness Week.*

3) **SUPPORT FOR PROPOSITION 46**

Action: ***Officially Supported** Proposition 46.*

4) **OFFICE XP SOFTWARE PURCHASE**

Action: ***Authorized** the City Manager to Issue a Purchase Order in the Amount of \$26,509.68 to Dell for Office XP Licenses.*

5) **2003 RECYCLING REWARDS CALENDAR**

Action: ***Determined** That Repeating the Formal Bidding Process Would Not Be Likely to Result in a Lower Price, or Would Cause Unnecessary Delay; and **Authorized** the City Manager to Issue a Purchase Order in the Amount of \$24,466 to Chase Printing for the 2003 Recycling Rewards Calendar.*

6) **ADOPTION OF REVISED CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR HOUSING PROGRAM COORDINATOR POSITION**

Action: ***Adopted** the Revised Job Description and Salary Range for the Housing Program Coordinator in Business Assistance and Housing Services.*

OTHER BUSINESS

City Council Action

7) SEWER AND WATER REVENUE REQUIREMENTS

Director of Finance Dilles presented the staff report.

The City's sewer and water rate consultant, MAXIMUS, has been studying the City's sewer and water revenue requirements and rate structure over the past year. The rates were last adjusted in 1997. The consultant has worked with staff and produced a report in which they have analyzed and projected the City's water and sewer revenue requirements. From this review and analysis, they have concluded that there is no obvious reason why the City's water or sewer rate structures should be changed and they have not recommended any such changes. Concerning sewer rates, they have concluded that there is no need to change the existing rates for the period through 2006/07.

For water rates, the consultant has provided three options:

- 1) Increase water rates by 2% in each of the years from 2002/03 through 2006/07; **or**
- 2) Implement a one-time increase of 8% to water rates effective April 1, 2003; **or**
- 3) Borrow \$1.5 million in the bond market in 2004/05, to finance capital related costs, and keep rates constant through 2006/07.

The consultant's assumptions include a 3% annual inflationary increase in costs, including the City's cost of purchasing water from the Santa Clara Valley Water District. Should actual annual water cost increases be higher than 3%, revenue requirements would increase and water rates for the City's customers would be impacted. While option #3 would keep rates constant through 2006/07, it would cause higher water rates down the line because related future debt service payments would be financed by future rate payers.

Staff seeks guidance from the Council as to which of the consultant's three options for meeting water revenue requirements should be implemented. Staff believes a workshop study session would be ideal for the Council to further discuss the alternatives and receive community input concerning sewer and water revenue requirements and rates, so that a decision on these alternatives may be made by January 1, 2003.

The overall conclusion reached by the consultant is that the sewer revenue requirements do not require any rate adjustments at this time and that water revenue requirements indicate that the City should take steps to provide for projected revenue requirements.

It is also necessary to adjust the contract with MAXIMUS by \$27,043.30 to provide for necessary services related to the sewer and water study and by \$5,752.66 for work on the completed development impact fee study, for a total increase of \$32,795.96. These necessary additional costs result from the complexity of the tasks and additional time spent by the consultant. These costs may be absorbed within the existing budget.

Director of Finance Dilles introduced consultant John Farnkopf, who made a presentation to the Council on their analysis of the sewer and water revenue requirements. He presented the Council with a power point presentation, which is incorporated into the agenda packet for this meeting. Expressed concern about the aging condition of the water infrastructure for the city. Explained the

reasoning behind the recommended reserve balance target criteria for the water and sewer funds to cover operations, rate stabilization, capital projects, and impact fund.

Reviewed the alternatives recommended for Council consideration; a 2% rate increase per year; a one-time 8% rate increase in FY 02-03; and no rate increase with a bond issue to cover the cost of capital projects.

The 1997 rate structure is still acceptable and meeting the needs of the city, but there are some significant near-term capital costs in the near future that will need to be funded.

Council Member Carr asked why the reserve is so much above the target in FY 01-02?

Finance Director Dilles reported the reserve balances were high in 1997 and have continued to accumulate even though rates were reduced. This is due to the type of housing development that has occurred since 1997, with larger houses that use more water and pay a higher water rate generating more revenue. Also, there has been saving for capital projects.

He also stated that inflation has been factored at the standard rate of 3%, but if it should be higher adjustments would be required. Also, Alternative 3, while not increasing rates, would have an effect down the line because of the years of debt service that would ultimately cause higher rates.

Mr. Farnkopf then reported on the sewer revenue fund, stating there would be a much more gradual increase in revenue requirements; and, with no rate increase, a gradual erosion of reserves. Currently, there are sufficient reserves to cover increased revenue requirements over the next five years. However, the Impact Reserve is not high enough, and an \$8 million debt will need to be issued in FY 04-05 to cover these costs.

No public comment was offered on this item.

Council determined that November 13, 2002, would be the best date for the workshop on this issue. Participation by City Treasurer Roorda was requested.

Action: *The City Council Reviewed the Water and Sewer Fund Revenue Requirements Study, and **Scheduled** a Workshop on November 13, 2002, to Evaluate Sewer and Water Revenue Alternatives, So That a Decision on These Alternatives Will Occur by January 1, 2003.*

Action: *On motion by Council Member Sellers, and seconded by Council Member Tate, the City Council unanimously (4-0), with Kennedy absent, **Authorized** the City Manager to Execute an Increase in the contract with Maximus in the Amount of \$32,795.96, Subject to the City Attorney's Review and Approval.*

8) KIWANIS CLUB HOLIDAY PARADE REQUEST TO WAIVE SPECIAL EVENT PERMIT FEE AND PROVIDE IN-KIND SUPPORT

City Manager Tewes presented the staff report, stating that representatives of the Morgan Hill Kiwanis Club have requested that the Special Event Processing fee be waived and that the City

donate services in support of the annual Holiday Parade. The Holiday Parade is an annual downtown event coordinated by the Kiwanis Club, which is a nonprofit service group. The amount they do charge goes towards the expense of new decorations and promotion. Kiwanis reports that this event is not a fund-raiser, but a community service project for the club, and does not raise additional funds.

Council Member Sellers stated he would like to see a formalized sponsorship agreement for this event, because he wants the public to know that the City participates financially in the project.

Public comment was opened.

Mr. Lew Aebersold, representing the Kiwanis, stated that they would be very pleased to partner with the City in the Christmas Parade.

There being no further comments, public comment was closed.

Council Member Tate stated that the suggestion that we charge the Special Event Processing fee to the Community Promotions fund was a good idea, because when we are in partnership the city should pay the fee.

Action: *On a motion by Council Member Tate, and seconded by Council Member Sellers, (4-0, with Kennedy Absent) Council **Directed** staff to enter into a formalized sponsorship agreement with the Kiwanis Club for the Christmas Parade; and **Directed** staff to pay the \$125 Special Event Processing fee from the Community Promotions Account.*

9) COMMUNITY CENTER AND PLAYHOUSE FACILITY OPERATING HOURS

Recreation Manager Spier presented that staff report. Now that marketing for the Community Center building has begun, the Recreation and Community Services Division is seeing a number of requests for reservations of the multi-purpose rooms for events that would extend later than currently established hours. Specifically, potential customers are requesting events to extend until midnight (or later), including Sundays. Staff believes that hours for the multi-purpose rooms could be reasonably extended until midnight, with an additional hour for clean-up, without causing undue impact on the neighboring residential area. Special extended hours should also be established to 1:00 am on New Year's Eve.

Ms. Spier reported that offering extended hours would also impact City operating costs. City staff would almost always be required to work these extended hours on an overtime basis, not only to supervise clean-up and close the facility at a later hour, but also to report to work early the following morning to prepare the facility for other scheduled events. Staff is recommending that if offering extended hours is authorized, that the City Council adopt the resolution to charge a premium fee of 1.5 times the standard rental rates for those extended hours.

Offering extended hours for events at the Community Center Building will increase the marketability and rental revenue of the facility by an unknown amount and will offset the extra cost of providing the facility and staff for these events. Should experience show that noise complaints

are being routinely received regarding extended hour events, the City staff could simply reduce operating hours as necessary.

Public comment was opened. No comments being received, public comment was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the Council (4-0, with Kennedy absent), **Authorized** Staff to Offer Extended Operating Hours for the Multi-Purpose Rooms at the Community Center.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the Council (4-0, with Kennedy absent), **Adopted** Resolution No. 5619, Establishing Fees for Extending Operating Hours at the Community Center.*

10) REVIEW OF ZONING REGULATIONS FOR PARKING LOT USED CAR/TENT SALES

Ed presented the staff report, and stated that Council Member Tate requested this item be placed on the agenda for discussion. Parking lot sales are regulated under Section 18.54.160.A of the Municipal Code. Such uses are limited seven days in any 180-day period and require a Temporary Use Permit (TUP), approved by the Community Development Director. A Temporary Use Permit was approved recently for Hartzheim Dodge to conduct used car sales in the parking lot at the Tennant Station shopping center the weekend of October 4-6, 2002. This past week, the City issued another TUP for Hartzheim Dodge to conduct the same use at Tennant Station on October 25 through October 28. After conclusion of the used car sales on October 28, the maximum seven days for the use will have elapsed and the shopping center location will not be available for parking lot sales the next six months (180 days).

The two TUP's issued to Hartzheim Dodge are the only permits the City has approved specifically for used car sales. Other types of parking lots sales that have been approved include the sale of Christmas trees, garden supplies, spas and swimming pool equipment, etc. Such uses must be conducted in a manner so as not to impact adjacent businesses or occupy required parking spaces for those businesses.

Mr. Tewes noted that if the Council's intention is to direct changes be made, direction should be given the Planning Commission to do so.

Public comment was opened. None being offered, public comment was closed.

Council Member Tate pointed out that there were two letters submitted to the Council on this issue.

Council Member Tate stated that he had requested this item be placed on the agenda for two reasons. He had driven by the car lot sale and noticed the carnival-like atmosphere, which struck him as being schmaltzy and made him wonder how the permit had received approval. He also had received a call from Al Chew, the owner of the local Chevrolet dealership, expressing his objection to this type of parking lot sale, since he is restricted from doing that on his permanent lot. Mr. Chew questioned why this was allowed in direct competition with permanent dealers in the city. Council Member Tate stated that he agreed the city should be looking out for the permanent auto dealers, and

he just did not want to have this kind of an atmosphere in Morgan Hill. Wanted to outlaw permits for temporary car sales or the “Carney” atmosphere, or something, but wanted the issue addressed.

Council Member Chang asked if there was any sales tax benefit to the city?

City Manager Tewes reported that sales tax is received if they file a temporary sales tax permit. There was none filed for the previous event, but there was for the upcoming event; and the city will receive some sales tax revenue from that. The owner of the shopping center felt that it would be advantageous to his center to allow the use of his parking lot for the event, and some of the businesses in the center were able to take advantage of the sale to help their businesses.

Council Member Sellers asked for clarification on the appeal process for this type of permit.

City Attorney Leichter stated that the normal appeal process for a Temporary Use Permit is through the Planning Commission, and then to City Council on appeal.

Council Member Tate stated the he was not aware that a second permit had been issued, and felt that it was now too late for an appeal process to take place for the upcoming weekend event.

Council Member Carr stated that he wants the Planning Commission to review this issue and make sure there are temporary sales tax permits required, control over signage and use of balloons, and regulation of how they set up and advertise such events. Also wants them to review the allowance of 7 out of every 180 days. Stated he does not want to repeal this use entirely, but would like better controls instituted.

Council Member Chang stated that she wants to make sure that the city receives the sales tax from such uses.

Council Member Sellers stated that those who are concerned with individual TUP’s should go through the established appeals process via the Planning Commission rather than assume that city staff or the Council had intentionally made a decision that would harm existing businesses. Agreed that this was an important issue to bring to the Council’s attention, and encouraged them to go ahead with an appeal on their own to the Planning Commission, per established procedures. Stated that the city should be circumspect in how the issue is handled, and not be too narrow in the review.

Council asked that staff relay the concerns of the Council raised this evening to those who are planning to hold the parking lot sale this weekend, and request them to give consideration to taking care not to be so garish.

City Manager Tewes stated that staff had already discussed with them that they not use balloons. He also noted that some of the tenants of the center are planning to take advantage of the lot sale to have their own sales.

Council Member Tate stated that he did not interpret the letters Council had received as being accusatory, but as trying to point out the situation and the impact on businesses in town when this is allowed to happen. He also suggested that consideration be given to limiting such parking lot sales to local businesses.

Council Member Sellers stated that he appreciated the professionalism of the Chamber of Commerce's comments, and would like to have others maintain a similar level of professionalism in their communications.

Council Member Chang stated that she is not sure these permits have to be limited to local businesses, but wants to make sure that all of them pay sales taxes.

Council Member Carr stated that he would like the Planning Commission to review how Temporary Use Permits are structured and issued.

Action: *On a motion by Council Member Carr, and seconded by Council Member Tate, the Council (4-0, with Kennedy absent), **Requested** the Planning Commission to Consider Amendments to the Municipal Code to Establish New Regulations Regarding Parking Lot Sales.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Vice-Chairperson Chang adjourned the meeting at p.m.

MINUTES RECORDED AND PREPARED BY

MOIRA MALONE, Deputy City Clerk

